

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

WILLIAM ERNST PETERSON, JR.,

Appellant.

DOCKET NUMBER WD77672

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 28, 2015

APPEAL FROM

The Circuit Court of Morgan County, Missouri
The Honorable Donald L. Barnes, Judge

JUDGES

Division Three: Mitchell, P.J., and Hardwick and Gabbert, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Attorneys for Respondent,

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Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
Respondent,)
v.) **OPINION FILED:**
) **July 28, 2015**
WILLIAM ERNST PETERSON, JR.,)
)
Appellant.)

WD77672

Morgan County

Before Division Three Judges: Karen King Mitchell, Presiding Judge, and Lisa White Hardwick and Anthony Rex Gabbert, Judges

William Peterson appeals, following a jury trial, his convictions of trafficking in the first degree, § 195.222, and three counts of endangering the welfare of a child in the first degree, § 568.045, for which the court sentenced him, as a prior offender, to a total of fourteen years' imprisonment. Peterson raises two claims on appeal: first, he argues that the evidence was insufficient to support his convictions; and second, he argues that the prosecutor misrepresented the evidence during closing argument.

AFFIRMED.

Division Three holds:

1. Possession of the controlled substance is not an element of the crime of first-degree trafficking. Though such evidence of knowing possession *may* support the conviction when the State alleges that the defendant *attempted* to distribute, deliver, manufacture or produce the controlled substance, the fact remains that the State is not *required* to prove possession as an element of the crime of first-degree trafficking. Thus, it is irrelevant that Peterson was not physically present when the officers located evidence demonstrating manufacture of methamphetamine on Peterson's property.

2. When an individual is charged with first-degree trafficking under a theory of accomplice liability, the State is not required to present additional evidence linking the defendant, individually, to the manufacturing operation.
3. The evidence was sufficient to support Peterson’s convictions. The jury was instructed to find Peterson guilty of first-degree trafficking if either he, Wife, *or* Stepson manufactured more than 90 grams of a substance containing methamphetamine, if *any* of them knew that the substance contained methamphetamine (a controlled substance), and if Peterson, with the purpose of promoting the commission of first-degree trafficking, acted either alone or together with Wife or Stepson. The evidence showed that more than 1400 grams of liquid containing methamphetamine was found on the property, with the bulk of that amount found in a locked tool room inside the residence. Only three people had keys—and therefore access—to the locked tool room: Peterson, Wife, and Stepson. Everything needed to manufacture methamphetamine was found inside the tool room, along with nine actual one-pot methamphetamine labs, which held liquids containing methamphetamine in them at the time of the search. The evidence showed that Peterson spent a considerable amount of time in the tool room and that he spent more time in there than either Wife or Stepson. The *only* reasonable inference from this evidence is that the locked tool room was being used to manufacture the considerable amount of methamphetamine found within it and that Peterson, Wife, and Stepson were all involved in the manufacturing process.
4. Prosecutor’s characterization of liquid found at Peterson’s residence as “1400 grams of methamphetamine” did not constitute plain error. Despite Peterson’s claim to the contrary, the first-degree trafficking statute does not require a finding that the product discovered was in a consumable state; rather, it requires the discovery of “any *material, compound, mixture or preparation*,” containing “any quantity of . . . methamphetamine.” In any event, Peterson suffered no prejudice, as it was unlikely that the jury would have believed the prosecutor to be stating that the 1400 grams of methamphetamine located were in any state other than liquid.

Opinion by: Karen King Mitchell, Judge

July 28, 2015

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.